

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Crystal Jordan,

Petitioner,

vs.

Brookland Enterprises, LLC,

Respondent.

Civil Action No. 7:18-3033-BHH

ORDER AND OPINION

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Kevin F. McDonald, made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On November 15, 2018, Magistrate Judge McDonald issued a Report and Recommendation (“Report”) recommending that the petition for removal and federal stay of eviction, filed pursuant to 28 U.S.C. § 1441, be summarily dismissed, and that this Court *sua sponte* remand the case to the State Magistrate Court for lack of subject matter jurisdiction. (ECF No. 11.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made.

Petitioner filed no objections and the time for doing so expired on December 3, 2018. In the absence of objections to the Magistrate Judge's Report, this Court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee's note).

Here, because no objections have been filed, the Court has reviewed the Magistrate Judge's findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that the petition for removal and federal stay of eviction is subject to summary dismissal.

Accordingly, the Report and Recommendation (ECF No. 11) is adopted and incorporated herein by reference. This action is DISMISSED with prejudice because no amendment can cure the defects in the petition or create federal subject matter jurisdiction over the underlying proceedings. Therefore, Petitioner's motion to stay (ECF No. 3) is denied as moot, and the action is REMANDED to the State Magistrate Court.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

January 9, 2019
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.